

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

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In re: PROMESA
THE FINANCIAL OVERSIGHT AND Title III
MANAGEMENT BOARD FOR PUERTO RICO, No. 17 BK 3283-LTS
as representative of (Jointly Administered)
THE COMMONWEALTH OF PUERTO RICO, et
al.,

Debtors.¹

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In re: PROMESA
THE FINANCIAL OVERSIGHT AND Title III
MANAGEMENT BOARD FOR PUERTO RICO, No. 17 BK 3284-LTS
as representative of
THE PUERTO RICO SALES TAX FINANCING This Order relates to the
CORPORATION, Commonwealth and COFINA and
Debtor. shall be filed in Case Nos. 17 BK
3283-LTS and 17 BK 3284-LTS.

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ORDER GRANTING URGENT CONSENSUAL MOTION
FOR ENTRY OF ORDER ESTABLISHING PROCEDURES
REGARDING SECTION 19.5 OF THE COFINA PLAN OF ADJUSTMENT

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Upon the *Urgent Consensual Motion for Entry of Order Establishing Procedures Regarding Section 19.5 of the COFINA Plan of Adjustment* (the “Urgent Consensual Motion”);² and the Court having found it has subject matter jurisdiction over this matter pursuant to PROMESA section 306(a); and it appearing that venue is proper pursuant to PROMESA section 307(a); and the Court having found that the relief requested in the Urgent Consensual Motion is in the best interests of COFINA, its creditors, and other parties in interest, it is **HEREBY ORDERED THAT:**

1. The Urgent Consensual Motion is granted as set forth herein.
2. BNYM shall file any brief/declarations supporting the amount BNYM contends should either be withheld from distributions to Whitebox and Ambac or posted by Whitebox and Ambac pursuant to Section 19.5 of the COFINA Plan by **January 2, 2019 at 4:00 p.m. (AST)**.
3. Whitebox and Ambac shall file any brief/declarations supporting their position that no amounts are required either to be withheld from their distributions or posted by Whitebox and Ambac pursuant to the COFINA Plan or applicable documents and laws by **January 2, 2019 at 4:00 p.m. (AST)**.
4. BNYM shall file any responsive papers to the Whitebox and Ambac brief/declarations regarding BNYM’s asserted entitlement to withhold amounts or require amounts to be posted in accordance with Section 19.5 of the COFINA Plan by **January 9, 2019 at 4:00 p.m. (AST)**.
5. Whitebox and Ambac shall file any responsive papers, including opposing declarations, to BNYM’s brief/declarations regarding the amounts, if any, to be withheld from

² Capitalized terms used but not otherwise defined herein have the meanings given to them in the Urgent Consensual Motion.

distributions or posted by Whitebox and Ambac in accordance with Section 19.5 of the COFINA Plan by **January 9, 2019 at 4:00 p.m. (AST)**.

6. BNYM, Whitebox, and/or Ambac may take deposition testimony from any of the declarants during the period of **January 10 – 15, 2019**.

7. The hearing to consider whether any amounts should be withheld from distributions to Whitebox and Ambac or posted by Whitebox and Ambac in accordance with Section 19.5 of the COFINA Plan and applicable documents and laws shall be held on **January 16, 2019, at 9:30 a.m. (AST) in San Juan**, and continued, if necessary, on **January 17, 2019 at 9:30 a.m. (AST)** at the United States District Court for the District of Puerto Rico, **Clemente Ruiz Nazario United States Courthouse, 150 Carlos Chardón Avenue, San Juan, P.R. 00918, Courtroom 5**, or at a courtroom to be later determined (the “Hearing”). In the event that the Court determines that some amounts should be withheld or posted, evidence regarding the amounts to be so withheld or posted shall be presented at the Hearing.

8. Any declarations and supporting exhibits filed by BNYM, Whitebox, and Ambac regarding the Dispute shall be treated as direct testimony. The declarants pertaining to such declarations shall be available for cross-examination, redirect, and rebuttal testimony at the Hearing.

9. The declarations submitted pursuant to this Order may be from fact or expert witnesses. The parties shall not be required to submit any written reports or additional disclosures relating to expert witnesses beyond the declarations and deposition testimony submitted or taken pursuant to this Order.

10. Nothing in this Order is intended to prejudice or limit (a) the parties’ rights, claims, or defenses against COFINA or each other, including, without limitation, any objections to

confirmation of the COFINA Plan generally or specifically with respect to Section 19.5 of the COFINA Plan and any rights, claims, counterclaims, or defenses that have been or may be asserted in connection with the Lawsuits, the Interpleader Action, or any related litigation, all of which rights, claims, counterclaims, and defenses are expressly preserved or (b) the rights, claims, or defenses of COFINA and the Oversight Board with respect to any such objections to confirmation of the COFINA Plan or otherwise asserted in the Lawsuits, the Interpleader Action, or any related litigation.

11. COFINA reserves the right to seek a rescheduling of the hearing dates established above subject to approval of this Court.

12. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

13. All discovery related matters arising from or related to this Order are hereby referred to Magistrate Judge Judith Dein.

14. This Order resolves Docket Entry No. 388 in Case No. 17-3284 and Docket Entry No. 4457 in Case No. 17-3283.

SO ORDERED.

Dated: December 19, 2018

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge